

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DOUG RANGLES and KERRI
RANGLES,

Plaintiffs,

v.

PLATYPUS MARINE, INC.,

Defendant.

CASE NO. C13-5892 BHS

ORDER GRANTING
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT AND
DENYING PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT

This matter comes before the Court on Defendant Platypus Marine, Inc.'s ("Platypus") motion for summary judgment (Dkt. 16) and Plaintiffs Doug and Kerri Randles' ("Randles") cross-motion for summary judgment (Dkt. 18). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby grants Platypus's motion and denies the Randles' motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On October 8, 2013, the Randles filed a complaint against Platypus alleging damage to the Randles' vessel, LA RATA BASTARDA ("LRB"), and asserting causes of

1 action for breach of warranty of workerlike performance, negligence, breach of bailment,
2 and punitive damages. Dkt. 1.

3 On May 15, 2014, Platypus filed a motion for summary judgment on the Randles'
4 punitive damages cause of action. Dkt. 16. On June 2, 2014, the Randles responded and
5 filed a cross-motion for summary judgment on the same claim. Dkt. 18. On June 6,
6 2014, Platypus replied to the Randles' response. Dkt. 19. On June 23, 2014, Platypus
7 responded to the Randles' motion. Dkt. 20. On June 27, 2014, the Randles replied. Dkt.
8 22.

9 **II. FACTUAL BACKGROUND**

10 In March 2013, the parties entered into an agreement regarding the repair of the
11 LRB. Dkt. 17, Declaration of Bruce Bryant, Exh. A. Platypus hauled out the LRB and
12 placed it on land approximately 300 yards from the water. *Id.*, ¶ 3. While repairing the
13 vessel, a Platypus worker started a fire in the vessel that damaged the vessel. This action
14 followed.

15 **III. DISCUSSION**

16 **A. Summary Judgment Standard**

17 Summary judgment is proper only if the pleadings, the discovery and disclosure
18 materials on file, and any affidavits show that there is no genuine issue as to any material
19 fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).
20 The moving party is entitled to judgment as a matter of law when the nonmoving party
21 fails to make a sufficient showing on an essential element of a claim in the case on which
22 the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317,

1 323 (1986). There is no genuine issue of fact for trial where the record, taken as a whole,
2 could not lead a rational trier of fact to find for the nonmoving party. *Matsushita Elec.*
3 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving party must
4 present specific, significant probative evidence, not simply “some metaphysical doubt”).
5 *See also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists
6 if there is sufficient evidence supporting the claimed factual dispute, requiring a judge or
7 jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477
8 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d
9 626, 630 (9th Cir. 1987).

10 The determination of the existence of a material fact is often a close question. The
11 Court must consider the substantive evidentiary burden that the nonmoving party must
12 meet at trial – e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477
13 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual
14 issues of controversy in favor of the nonmoving party only when the facts specifically
15 attested by that party contradict facts specifically attested by the moving party. The
16 nonmoving party may not merely state that it will discredit the moving party’s evidence
17 at trial, in the hopes that evidence can be developed at trial to support the claim. *T.W.*
18 *Elec. Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson*, 477 U.S. at 255). Conclusory,
19 nonspecific statements in affidavits are not sufficient, and missing facts will not be
20 presumed. *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888-89 (1990).

1 **B. Punitive Damages**

2 In this case, Platypus argues that (1) punitive damages are not available for breach
3 of a maritime contract, (2) Washington law applies to the Randles' negligence claim, and
4 (3) punitive damages are not available under Washington tort law. Dkt. 16. With regard
5 to the parties' maritime contract, maritime law does not allow for punitive damages for
6 breach of contract. *Thyssen, Inc. v. S.S. Fortune Star*, 777 F.2d 57 (2nd Cir. 1985). The
7 Randles, however, cite *Thyssen* for the proposition "that punitive damages are available
8 in contract actions when 'the conduct constituting the breach is also a tort for which
9 punitive damages are recoverable.'" Dkt. 18 at 14 (citing *Thyssen*, 777 F.2d at 63, 66).
10 The Randles' selective quotation is misleading and their argument is wholly without
11 merit. A full reading of *Thyssen* and the Restatement (Second) of Contracts § 355
12 (1979), which the *Thyssen* court relies upon, clearly shows that punitive damages are
13 awarded as a result of proving the accompanying tort for which punitive damages are
14 recoverable. Therefore, the Court grants Platypus's motion and dismisses the Randles'
15 claim for punitive damages due to a breach of contract.

16 With regard to whether maritime tort law or Washington tort law governs the
17 incident, the Court concludes that location of the vessel is dispositive. "With respect to
18 torts involving vessels, a series of Supreme Court cases confine admiralty jurisdiction to
19 actions for wrongs that occur on navigable waters and bear a sufficient relation to a
20 maritime activity." *David Wright Charter Service of North Carolina, Inc. v. Wright*, 925
21 F.2d 783, 784 (4th Cir. 1991) (citations omitted). In this case, it is uncontested that the
22 incident happened while the LRB was on land some 300 yards from navigable waters.

1 Therefore, the Court concludes that the tort occurred outside of admiralty jurisdiction and
2 Washington law governs this cause of action. The cases the Randles cite to the contrary
3 involve construing the scope of the Longshoremen's and Harbor Workers' Compensation
4 Act and are without merit as to the current dispute involving negligent repair.

5 With regard to punitive damages under Washington tort law, "Washington does
6 not allow punitive damages unless expressly authorized by the legislature." *Bryant v.*
7 *Wyeth*, 879 F. Supp. 2d 1214, 1221 (W.D. Wash. 2012) (citing *Barr v. Interbay Citizens*
8 *Bank of Tampa, Fla.*, 96 Wn.2d 692, 697 (1981) *amended*, 96 Wn.2d 692 (1982). The
9 Randles have failed to show that the Washington legislature has authorized punitive
10 damages for this cause of action. Therefore, the Court grants Platypus's motion and
11 dismisses the Randles' claim for punitive damages.

12 IV. ORDER

13 Therefore, it is hereby **ORDERED** that Platypus's motion for summary judgment
14 (Dkt. 16) is **GRANTED** and the Randles' cross-motion for summary judgment is
15 **DENIED** (Dkt. 18) as moot.

16 Dated this 12th day of August, 2014.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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